

**STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

**Donald W. McConnell
System ID No. 0077988**

Enforcement Case No. 08-5745

Respondent
_____ /

Issued and entered
on May 14 2009
by **Stephen R. Hilker**
Chief Deputy Commissioner

CONSENT ORDER AND STIPULATION

A. FINDINGS OF FACT AND CONCLUSIONS OF LAW

It is alleged that the following statements are true and correct:

1. At all pertinent times, Respondent McConnell was an insurance producer licensed to conduct the business of insurance in the State of Michigan.
2. On or about May 20, 2008, the Office of Financial and Insurance Regulation received a letter from [REDACTED] concerning the Respondent's financial activities while acting as an insurance producer.
3. [REDACTED] notified OFIR about their concern with Respondent McConnell due to the insufficient return of Electronic Fund Transfers originating from McConnell's Premium Fund Account (PFA). A December 31, 2007, reconciliation of the PFA returned with a deficit of \$96,237.83.
4. During a meeting with an Agency Field Executive (AFE), Respondent McConnell admitted he was not depositing customer payments into the PFA money, but instead depositing the customer payments into his personal bank account. Respondent McConnell further disclosed that he was keeping the PFA money to compensate for garnishment of his wages by the Internal Revenue Service (IRS).
5. As a licensed insurance producer, Respondent McConnell knew or had reason to know that Section 1207(1) of the Code requires: "An agent to be a fiduciary for all money

received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility."

6. As a licensed insurance producer, Respondent McConnell knew or had reason to know that Section 1239(1)(d) of the Code allows the Commissioner to place on probation, suspend, revoke, or levy a civil fine under Section 1244 or any combination thereof, for "Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business."
7. As a licensed insurance producer, Respondent McConnell knew or had reason to know that Section 1239(1)(h) of the Code allows the Commissioner to place on probation, suspend, or revoke an insurance producer's license or levy a civil fine under Section 1244 of the Code for: "Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."
8. Respondent McConnell received money in his fiduciary capacity as an agent, but failed to remit the money to whom it was owed in a timely manner, which is a violation of Section 1207(1) of the Code.
9. Respondent McConnell improperly withheld, misappropriated, or converted money received in the course of doing insurance business in the State of Michigan, which is a violation of Section 1239(1)(d) of the Code.
10. Respondent McConnell used fraudulent, coercive, or dishonest practices or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in the State of Michigan, which is a violation of Section 1239(1)(h) of the Code.
11. Based upon the above actions, Respondent McConnell has committed acts that are grounds for the Commissioner ordering payment of a civil fine, refund of any overcharges, restitution be made to insureds to cover losses, damages or other harm attributed to Respondent's violation of the Code, and/or licensing sanctions under Section 1244(1) of the Code for the Respondent violating Section 1207(1), 1239(1)(d), and 1239(1)(h) of the Code.


B. ORDER

Based on the findings of fact and conclusions of law above and Respondent's stipulation, it is ORDERED that:

1. Respondent shall immediately cease and desist from operating in such a manner as to violate with Section 1207(1) and 1239(1)(d) and (h) of the Code, MCL 500.1207(1), 500.1239(1)(d), and 500.1239(1)(h).

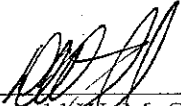
2. Respondent's insurance producer license and authority are hereby **REVOKED**.

OFFICE OF FINANCIAL AND
INSURANCE REGULATION

By: 
Stephen R. Hilker
Chief Deputy Commissioner

C. STIPULATION

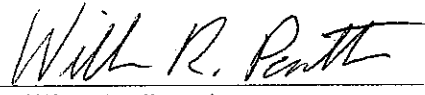
I have read and understand the consent order above. I agree that the Commissioner has jurisdiction and authority to issue this consent order pursuant to the Insurance Code. I waive the right to a hearing in this matter if this consent order is issued. I understand that this stipulation and consent order will be presented to the Commissioner for approval and the Commissioner may or may not issue this consent order. I waive any objection to the Commissioner deciding this case following a hearing in the event the consent order is not approved. I admit the facts set forth in the above consent order and agree to the entry of this order.



Donald W. McConnell
System ID No. 0077988

Dated: 5-6-09

The OFIR staff approves this stipulation and recommends that the Commissioner issue the above Consent Order.



William R. Peattie

Dated: 5/13/09